

PLEASE RETURN
DREYER BROS., INC.



D4

CORPORATE OFFICE
900 First Northwestern Bank Center
Billings, Montana 59101
Phone: 406-259-4521

RANCH OPERATIONS
P.O. Box 96
Circle, Montana 59215
Phone: 406-485-3623

March 30, 1979

Mr. Ted C. Doney, Director
Montana Department of Natural
Resources and Conservation
32 South Ewing
Helena, Montana 59601

Dear Mr. Doney:

This letter, and attachments hereto, is submitted as the fifth annual "long range plan" of Dreyer Bros., Inc. (a wholly owned subsidiary of Burlington Northern Inc.) for its Circle West Project, McCone County, in accordance with the requirements of the Montana Major Facility Siting Act.

We made application for a water appropriation for this project to the Water Rights Bureau on June 26, 1974, and for a reservoir site on December 4, 1974. We filed descriptions of the coal development with the Department of State Lands, and of the plant development with the Energy Planning Division, on June 26, 1974. We filed with the Water Rights Bureau our preliminary water study, prepared by the engineering firm of Hurlbut, Kersich and McCullough, in December 1974. We also filed with the Department of Natural Resources and other state, federal and local agencies our preliminary engineering study and conceptual plant design, prepared by the M. W. Kellogg Company, in February, 1976. There has been no significant change in our concept; and copies of those letters and applications, plus a map from the preliminary water engineering study, are attached and incorporated into this letter in accordance with Regulation 36-2.8 (6)-S860.

Environmental study and consideration of this project commenced in October, 1974, when Governor Judge appointed DNR as lead agency. This was prior to the amendment of the Utility Siting Act into the Major Facility Siting Act in 1975 so as to include the Circle West Project. The contract for base line environmental studies between Dreyer Bros. and DNR was signed in December, 1975, and the wildlife and vegetation studies are now completed. DNR will continue to monitor the wildlife and vegetation under this contract.

STATE DOCUMENTS COLLECTION

AUG 2 1979

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PLEASE RETURN

Mr. Ted C. Doney
March 30, 1979
Page 2

We had hoped and intended to commence additional facility related environmental studies under this contract, however as we have clearly stated in previous long range plans, we will not undertake large expenditures without some confidence that water is obtainable.

The long range plan filed in March, 1977, contained the following paragraph:

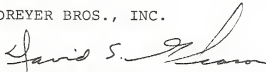
"The meeting in Helena on Wednesday, February 16, 1977, between representatives of the U. S. Bureau of Reclamation, your department and ourselves left unresolved certain issues pertaining to water availability. Specifically: (1) the Bureau is unclear as to why Dreyer Bros., Inc.'s 32,000 acre-feet per year industrial water is being considered as coming from the temporarily available "surplus" water rather than from the water which the governmental ad hoc committee determined to be permanently available for industrial use; (2) the Bureau is unclear as to its jurisdiction to contract with Dreyer Bros., Inc. for the 35,000 acre-feet per year of agricultural water; and (3) the Bureau is unclear as to the form of a water service subcontract it will accept, and has not agreed to accept the Dreyer Bros., Inc.-State of Montana subcontract in its existing form."

This situation remains unchanged. There have been subsequent meetings and exchanges of correspondence, most recently our letter to DNR dated September 28, 1978.

The result of these uncertainties is that we are not presently able to provide a time table for further progress on the Circle West Project, when an application will be filed under the requirements of MFSA, or what construction schedule will be applied for. We continue to believe that the basic concept of the project is sound and beneficial and intend to move towards that concept as best we can, particularly the mine related aspects. But we will not undertake large expenditures related to the facility aspects until the factors beyond our control are resolved.

Yours very truly,

DREYER BROS., INC.


David S. Gleason
Vice President

DSG/nal

Mr. Ted C. Doney
March 30, 1979
Page 3

Enclosures

cc: Governor Thomas L. Judge
Lt. Governor Ted Schwinden
Montana Environmental Quality Council
Montana Department of Highway
Montana Department of Health
Montana Department of Public Service Regulation
Montana Department of Community Affairs
Montana Department of State Lands
Chairman, McCone County Board of County Commissioners

September 28, 1978

Mr. Ted J. Doney, Director
Montana Department of Natural Resources
32 South Ewing
Helena, MT 59601

Mr. L. W. Lloyd, Regional Director
U. S. Bureau of Reclamation
316 North 26th St.
Billings, MT 59101

Gentlemen:

We have received and are reviewing the "latest draft" sub-contract transmitted to us September 18. We see major problems in four areas:

1. The proposal appears to require pre-service payments prior to the granting of state and federal permits to withdraw and use water.
2. The proposal requires water service payments even if water is unobtainable due to "uncontrollable forces", or even if the reservoir should be deliberately drained.
3. The proposal leaves unanswered the question of "permanent" vs "temporary" water. (Please refer to figure 1.2 on page 1.3 of the statement, INT DES 76-38, October 12, 1976, which clearly shows that there is a block of water permanently available for industrial use in addition to the block of water presently surplus for agricultural uses and therefore temporarily available for industrial use.) We see no reason why Dreyer Bros. should not have a permanent water supply.
4. Most importantly, the proposal does not appear to give any consideration to the recent decision of the U. S. Supreme Court in California vs United States (July 3, 1978, 46 USLW 4997) and in United States vs New Mexico (July 3, 1978, 46 USLW 5010).

Page 2
September 28, 1978

These decisions, in our opinion, significantly change the basis of the situation by defining and restricting claims of federally reserve rights and by requiring that federal claim to impounded waters be perfected under state law.

State water law, and appropriation rights under state law have clearly been enhanced by these decisions, and we emphasize the importance of paragraph 7c. of the October 20, 1976, sub-contract (which is omitted in the "latest draft") acknowledging the effect of a Dreyer Bros. water right.

It seems important, in view of these court decisions, that the Department and the Bureau advise us as soon as possible to the present status of the Memorandum of Understanding between Army and Interior and the Contract between Interior and Montana.

We will continue to work on the sub-contract form and language in preparation for a meeting, however, the status of the underlying Memorandum and Contract must be clear before sub-contract details can be realistically discussed much less resolved.

We will, of course, meet at your convenience to discuss these problem areas, and we look for your early response regarding the status of the Memorandum and Contract.

Yours truly,

D. S. Gleason
Vice President

DSG/nal

cc: E. E. Thurlow
R. E. Anderson
K. W. Kroschel
W. A. Shanahan
Orrin Ferris - DNR
Dan MacIntyre - DNR
Bill Crosby - USBR
Al Bielefeld - USBR

AGREEMENT FOR ENVIRONMENTAL INVESTIGATION

THIS AGREEMENT made this 17 day of December, 1975, between DREYER BROS., INC., a Montana corporation, hereinafter referred to as FIRST PARTY, and the STATE OF MONTANA, acting by and through the DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (its "lead" agency), hereinafter referred to as SECOND PARTY;

W I T N E S S E T H:

THAT, WHEREAS, FIRST PARTY has obtained a prospecting permit from the Montana Department of State Lands to examine a deposit of lignite coal located on the Dreyer property in McCone County, Montana, and hereinafter referred to as the "Circle West" coal deposit; and,

WHEREAS, on or about June 26, 1974, FIRST PARTY advised SECOND PARTY that it was proceeding with the planning and development of a concept for the production of anhydrous ammonia fertilizer, methanolmethyl fuel and synthetic diesel fuel from the lignite coal deposit on the Dreyer property, which is located approximately twenty (20) miles northwest of the community of Circle, in McCone County, Montana; and,

WHEREAS, FIRST PARTY, in proceeding with the Circle West project, wishes to promote efforts which will prevent or eliminate damage to the environment and biosphere, insofar as this is practicable and as required by law; and, in conjunction therewith, has entered into discussions with

SECOND PARTY to develop environmental "base line" information on the Project Area (which is more particularly described in Exhibit "A" attached hereto and which is incorporated herein by this reference); and,

WHEREAS, FIRST PARTY will be required to satisfy the requirements of federal laws and agencies, as well as state laws and agencies, with respect to the preparation of Environmental Impact Statements on various phases of the project; and, it is the intent of the PARTIES to provide a source of information which is to be made available to state, federal and private agencies for the preparation of any Environmental Impact Statement or statements (including those which may be required by the SECOND PARTY with respect to the Montana Major Facility Siting Act; and with respect to FIRST PARTY's Application to Appropriate Water from Fort Peck Reservoir, filed June 26, 1974; and by the Montana Department of State Lands in connection with its requirements under the laws relating to the location and operation of "strip mines" for the removal of the lignite coal deposit); and,

WHEREAS, the PARTIES have agreed to proceed with the investigation of the Project Area and the development of "base line" information on the project site (in accordance with the Specifications and Scope of the Work, which are attached hereto marked Exhibit "B", and which are incorporated herein by this reference), with SECOND PARTY to complete this work in order to satisfy the needs of this project, as more particularly outlined in Exhibit "B".

NOW, THEREFORE, the PARTIES being duly advised in the premises agree as follows:

(1) CONTRACT PAYMENTS: Payment for work performed and services rendered for the FIRST PARTY will be paid upon statements submitted to FIRST PARTY by SECOND PARTY in accordance with the Method of Payment (attached hereto marked Exhibit "C", which is incorporated herein by this reference). SECOND PARTY agrees to perform the services, provide the data and make reports as can be accomplished within the term of this Agreement; PROVIDED, that payments made hereunder by FIRST PARTY shall be credited against the filing fees payable by FIRST PARTY to the ^{State of} ~~State~~ ~~of Montana~~ as described in Exhibit ~~"C" and "B"~~. TCK 8/72
TCK 8/72

(2) TERM OF THE AGREEMENT: It is the intention of the PARTIES that this Agreement shall cover the period described in Exhibit "B"; PROVIDED, HOWEVER, that it is anticipated that the term of this Agreement may be extended by mutual agreement of the PARTIES.

(3) NEED AND USE FOR INFORMATION: The PARTIES acknowledge that the Project Area described in Exhibit "A" may include other project sites or may be included within a regional study of environmental problems; and that the data developed may be made applicable to either "site specific" or "regional" environmental impact studies required by the agencies described herein.

The PARTIES further agree that the methods of investigation, equipment used, data accumulated pursuant to this Agreement and reports made are to be done in a spirit of

cooperation with federal, state and private agencies concerned, in an attempt to assure their sufficiency and acceptability as the basis for the preparation of various environmental impact evaluations which may have to be made by the following agencies or by others:

- (a) The U. S. Army Corps of Engineers;
- (b) Bureau of Land Management, U. S. Department of Interior;
- (c) Forest Service, U. S. Department of Agriculture;
- (d) Environmental Protection Agency;
- (e) Bureau of Sports, Fisheries and Wildlife, U. S. Department of Interior;
- (f) U. S. Soil Conservation Service, U. S. Department of Agriculture;
- (g) U. S. Geological Survey;
- (h) The Montana Department of Natural Resources and Conservation;
- (i) The Montana Department of State Lands;
- (j) The Montana Department of Highways;
- (k) The Montana Department of Health and Environmental Sciences;
- (l) The Montana Department of Fish and Game;
- (m) The Montana Department of Public Service Regulation;
- (n) The Montana Department of Community Affairs.

The memoranda of understanding between SECOND PARTY and the various federal and state agencies or lead agencies concerned are attached hereto and marked Exhibit "D" (with necessary subparts and incorporated herein by this reference).

The PARTIES agree that there are various studies which have already been made and which may be made of the project area and the adjacent countryside; and, wherever possible, valid information available without cost from these and other existing sources, and grants or other moneys available to either PARTY for these purposes, shall be used so as to reduce cost and prevent duplication in the gathering of data in this study.

(4) ACCESS AND NOTICE: To facilitate the activities to be engaged in by SECOND PARTY hereunder, FIRST PARTY agrees to permit access by the duly authorized representatives of SECOND PARTY to the lands of FIRST PARTY within the Project Area described in Exhibit "A" attached hereto, provided that all excavations, openings, the location of monitoring devices, or the erection of any temporary or permanent structures will be made with the approval of FIRST PARTY and in compliance with state law. Each PARTY shall keep the other advised of its activities on the premises with reasonable advance notice so as to provide reasonable opportunity for each PARTY to conduct required activities, investigations, observations, monitoring and other data gathering for mutual advantage and in order to insure a valid work product usable by all state, federal and private agencies which may be involved in the project.

(5) USE OF THE PREMISES: SECOND PARTY agrees to use the Project Area described in Exhibit "A" for the purposes herein described, only, and further agrees:

- (a) To cause all activities hereunder to be done in a reasonable manner.
- (b) To assume full responsibility for all personnel, vehicles and equipment brought on the premises, including responsibility for state and federal laws and regulations relating to industrial accident insurance, labor and unemployment; and to save and hold FIRST PARTY harmless from any claim or claims resulting from a failure to comply with any of the laws or regulations.
- (c) To conduct activities on the property in a prudent manner; and to hold FIRST PARTY and the property free and harmless regarding any claims or disputes which may arise between SECOND PARTY and any other person with respect to the activities of SECOND PARTY on the premises; and not to suffer and permit the filing of any claims or liens which may jeopardize the title of FIRST PARTY, and to hold FIRST PARTY harmless therefrom.

(6) EXECUTION OF EXHIBITS AND FINAL REPORT: The PARTIES agree to proceed diligently toward the preparation and execution of Exhibits "A", "B", "C" and "D" hereto, which, when attached, will become a part hereof; and, the obligations of the PARTIES will not be considered ^{fully} executed and valid until said Exhibits are attached. TUC 8/77

SECOND PARTY shall submit, upon completion of its studies hereunder, a final report, in a suitable form, of all the work done during these studies, together with a suitable detailed presentation of all the data and information obtained during the studies, which will satisfy Montana requirements, as specified in Exhibit "D". TUC 8/77

(7) EFFECT OF AGREEMENT: Nothing in this Agreement shall alter the effect of, nor change the requirements of, any applicable state or federal law; and neither PARTY

shall be held to have waived or relinquished any right, chose in action, responsibility or remedy created, imposed or available under any law.

(8) RESPONSIBILITY, DEFAULT AND TERMINATION:

Failure to comply with the terms and conditions of this Agreement shall be grounds for declaration of default and termination of this Agreement as herein provided:

- (a) In the event of a default, either PARTY must declare the same by notifying the other PARTY of the default, specifying the grounds therefor and recommending means for the correction of the problem.
- (b) If either PARTY is unable or unwilling to comply with the notice of default, this Agreement shall terminate at the end of thirty (30) days from the date of receipt of such notice of default; and, payment will be due from FIRST PARTY only for such work as has actually been completed and not paid for under previous progress statements.
- (c) Notice and any reports or inquiries required hereunder shall be mailed, postpaid, to the following addresses:

1. FIRST PARTY:

DREYER BROS., INC.
401 Midland Bank Building
Billings, Montana 59101

2. SECOND PARTY:

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
32 South Ewing Street
Helena, Montana 59601

- (d) In order to better facilitate the provisions of this Agreement, the PARTIES hereto designate the following liaison officials:

1. FIRST PARTY:

David S. Gleason
Vice President
DREYER BROS., INC.
Midland Bank Building
Billings, Montana 59101

2. SECOND PARTY:

Albert C. Tsao
Administrator
Energy Planning Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
32 South Ewing
Helena, Montana 59601

IN WITNESS WHEREOF, the PARTIES hereunto have set their
hands on the day and year above written.

DREYER BROS., INC.

By: T. C. Kryzer

T. C. Kryzer
President

ATTEST: (Corporate Seal)

By: T. F. Freers

Assist. Secretary

THE STATE OF MONTANA

By: Gary J. Wicks

Gary J. Wicks, Director
Department of Natural Resources &
Conservation (Lead Agency)

ATTEST: (Corporate Seal)

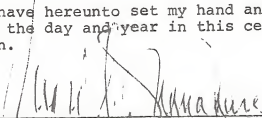
By: Norma J. Smith

Norma J. Smith
Secretary to Director

STATE OF MONTANA)
 : ss.
COUNTY OF LEWIS AND CLARK)

On this 11th day of December, 1975, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared T. C. KRYZER, known to me to be the President of DREYER BROS., INC., a Montana corporation, the corporation whose name is subscribed to the within instrument and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year in this certificate first above written.

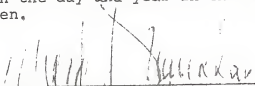

NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Helena, Montana
My Commission expires: Jan. 15, 1978

(Notarial Seal)

STATE OF MONTANA)
 : ss.
COUNTY OF LEWIS AND CLARK)

On this 11th day of December, 1975, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared GARY J. WICKS, Director of the DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, who is known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year in this certificate first above written.


NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Helena, Montana
My Commission expires: Jan. 15, 1978

(Notarial Seal)

DREYER BROS., INC.

Corporate Office
401 Midland Bank Bldg.
Billings, Montana 59101
Phone 406-259-4521

D4

June 26, 1974

Ranch Operations
P. O. Box 96
Circle, Montana 59215
Phone 406-485-3623

Mr. Orrin A. Ferris
Administrator
Water Resources Division
Montana Department of Natural
Resources and Conservation
Helena, Montana 59601

Dear Mr. Ferris:

The attached Application for Beneficial Water Use Permit is submitted by Dreyer Bros., Inc., a wholly-owned subsidiary of Burlington Northern Inc.

The water is to be used for industrial and agricultural purposes. The industrial use is for the manufacture of ammonia, methanol-methyl fuel and synthetic diesel fuel. The agricultural use is for increased production by irrigating approximately 17,500 acres of land.

The Application will be supplemented with additional information, which, for the following reasons, is not presently available.

1. Our topographic studies in the area are not complete.
2. The Corps of Engineers, U. S. Army, is required by law to control the location and design of the intake structure, pump house, pipelines and associated structures. Application is being made to the Corps, and the data will be developed as this is processed.
3. The size and cost of the water-handling facilities will be dependent on these determinations.

Dreyer Bros., Inc., requirements for water are approximately 67,000 acre-feet per year, which we propose to withdraw from near the mouth of Nelson Creek in the Big Dry Arm, Fort Peck Reservoir, Missouri River.

The same intake structure, pump house, pipelines and associated structures could be shared with a Water Users Association, Irrigation District, municipality, or any other local entity which can lawfully join in a water development.

Mr. Orrin A. Ferris
June 26, 1974
Page 2

Our proposed development could make it possible, for instance, for some cooperating entity to move water to the head of Stoney Butte Creek, a tributary of the Redwater River. This could make water available at Circle, as well as the full length of Stoney Butte Creek and along the 70-mile length of the Redwater River below the mouth of the creek.

Dreyer Bros., Inc., offers to cooperate in any such joint development on some equitable shared cost basis. We are, however, limiting this Application to water for our own consumption. We are not making an attempt to forecast the water needs of any District, Association, or other entity. We believe that any such entity should independently obtain an appropriation based on their own water needs.

We fully intend to provide all necessary information to supplement this Application, for the purpose of making it more complete and definitive, as it becomes available. Topographic coverage, for example, will be forwarded to your office as soon as it is available.

Yours truly,



Thomas C. Kryzer
President, Dreyer Bros., Inc.

TCK/meh
Attachment

9:35 a.m.

APPLICATION NO. _____
(For Dept. Use Only)

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

APPLICATION FOR BENEFICIAL WATER USE PERMIT

Note: Use one application for each source of supply or separate development. Check all appropriate boxes and fill in each blank line. If the question is not applicable in your case, enter NA (not applicable). If more space is necessary, attach additional sheets.

(Please type or print in ink)

1. Name of Applicant Dreyer Bros., Inc., a Montana Corporation (subsidiary of
Mailing Address 401 Midland Bank Building Burlington Northern Inc.)
City or Town Billings State Montana Zip 59101
Home Phone NA Other Phone 259-4521

2. Source of water supply Big Dry Arm, Ft. Peck Reservoir, Missouri River,
a tributary of _____
(stream name; if well, so indicate)

3. (a) Point of diversion:

____ % ____ % ____ % Section 27, Township 21 ^N _S, Range 43 ^E _W, McCone County

Additional points of diversion, if any:

____ % ____ % ____ % Section ____ , Township ____ ^N _S, Range ____ ^E _W, ____ County

____ % ____ % ____ % Section ____ , Township ____ ^N _S, Range ____ ^E _W, ____ County

(b) If water is not consumed, it will be discharged back into the same source:

Yes ☒ ; No ☐ . If no, explain and give the complete land description at the point of discharge. _____

____ % ____ % ____ % Section ____ , Township ____ ^N _S, Range ____ ^E _W, ____ County

4. Description of water development:

(a) Diverting works. Enclose all pertinent engineering data available. If not available, describe the horsepower rating of the pump and capacity in gallons per minute, size of ditches, flumes, dikes or other. Intake structure,
pump house, pipeline system with capacity of 145.7 cfs, and storage pond.

(b) Reservoir (if applicable).

1. Project will be an enlargement of an existing reservoir.

Yes ☐ ; No ☒ . (If yes, complete both 3 and 4 below.)

2. Project will be a new reservoir.

Yes ☒ ; No ☐ . (If yes, enter NA in 3 below, and complete 4.) Storage pond in

3. Capacity of existing (old) reservoir when constructed: NA acre-feet.

4. Capacity of new(proposed) reservoir: approximately 1,000 acre-feet.

(c) Well Depth: NA feet (if applicable).

(d) Project will be a developed spring: Yes ☐ ; No ☒.

Received & filed 6/21/74 9:35 a.m.
Dept. Nat. Res. Ken Clark

5. Proposed Construction:

(a) Desired starting date 1974; anticipated completion date 1976(b) Estimated construction cost \$ unknown.

6. Amount of water, use to which it will be applied, and period of use:

100 cfs up to 35,000 for irrigation from April 15 to October 15 inclusive.
 (Amount) (acre-feet) (use) (month-day) (month-day)

12.8 cfs up to 9,000 for production of ammonia from January 1 to December 31 inclusive.
 (Amount) (acre-feet) (use) (month-day) (month-day)

11.4 cfs up to 8,000 for methanol from January 1 to December 31 inclusive.
 (Amount) (acre-feet) (use) (month-day) (month-day)

21.5 cfs up to 15,000 for diesel fuel from January 1 to December 31 inclusive.
 (Amount) (acre-feet) (use) (month-day) (month-day)

Total amount requested: 145.7 cfs up to 67,000 acre-feet per year.

7. Description of proposed beneficial water uses:

(a) Irrigation (if applicable).

- Method of irrigation: Flood ☐; Sprinkler ☐. If Flood, explain: Probably both will be used, but not finalized at present due to lack of topographic maps in area.
- Project will involve new irrigated land: Yes ☒; No ☐.
- Project will involve supplemental water to existing irrigation: Yes ☒; No ☐.
- Project will involve both new irrigated land and supplemental water to existing irrigation: Yes ☒; No ☐. If yes, the acreage must be entered on separate lines in the Table below, and identified on the map in Item 9, page 3.
- Acreage by land description: (Enter the number of acres to be irrigated in the appropriate quarter-section.)

Example:								Check Appropriate Block	
Sec.	Twp.	Rge.	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	Totals	New	Supplemental
7	18N.	20E	35		140	118	293	✓	

See Attachment "A."

								Check Appropriate Block	
Sec.	Twp.	Rge.	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	Totals	New	Supplemental

Total number of acres to be irrigated → 17,540

(b) Non-irrigation use: (if applicable)

1. Place of use of the water will be the same as location given in Item 3(a), page 1.

Yes ☐; No ☒. If no, give the location: $\frac{1}{4}$ $\frac{1}{4}$ Section 25,Township 20 N, Range 44 E, McCone County.

2. Estimate the maximum number and type of livestock to be watered:
- NA

Are there other locations where the same livestock are watered? Yes ☐; No ☒.

3. Name of municipality to be served:
- NA

4. Number of families to be supplied:
- NA

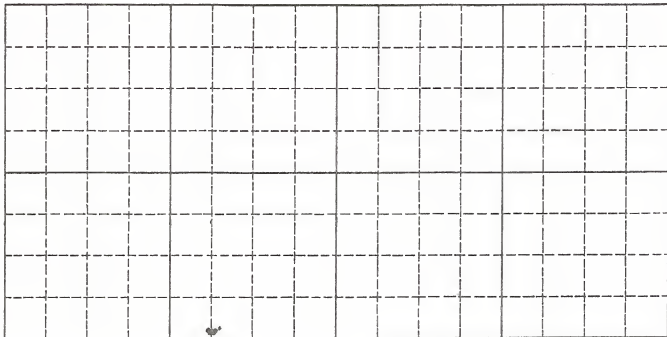
5. If water will be used for other purposes, describe:
- Manufacture of ammonia, methanol-methyl fuel, and synthetic diesel fuel, and miscellaneous plant or mine needs such as dust suppressor, fire protection, etc.

8. Ownership:

- (a) Property owner at the point of diversion: Corps of Engineers, U. S. Army
 (b) Property owner at the place of use: Burlington Northern Inc.
 (c) If either (a) or (b) above are other than the applicant, describe the arrangement enabling the applicant to make this filing: Leases, easements or purchase are being applied for and/or negotiated.

9. Map of proposed water development: Indicate clearly the point of diversion, place of use, and section, township, and range numbers. Show pertinent information concerning the development, such as dams, canals, ditches, pipelines, wells, etc. Use the largest, most convenient scale possible. If the map shown below is not adequate to describe your development, attach additional sheets.

See Attachment "B."



10. Remarks: Exact location of water withdrawal system will be determined by requirements of the Corps of Engineers and other Federal, State and County agencies. Exact size of the system will be determined when the water requirements of other participants, if any, in the project are known. It is anticipated that some of the industrial water would be used for domestic purposes in the construction camp during the construction of the industrial facilities; this would be a temporary use.

11. THE APPLICANT CERTIFIES THAT THE STATEMENTS APPEARING HEREIN ARE TO THE BEST OF HIS KNOWLEDGE TRUE AND CORRECT.

Thomas E. Kyzer
 (Signature)
 President, Dreyer Bros., Inc.

(Date)

(Signature)

(Date)

(Signature)

(Date)

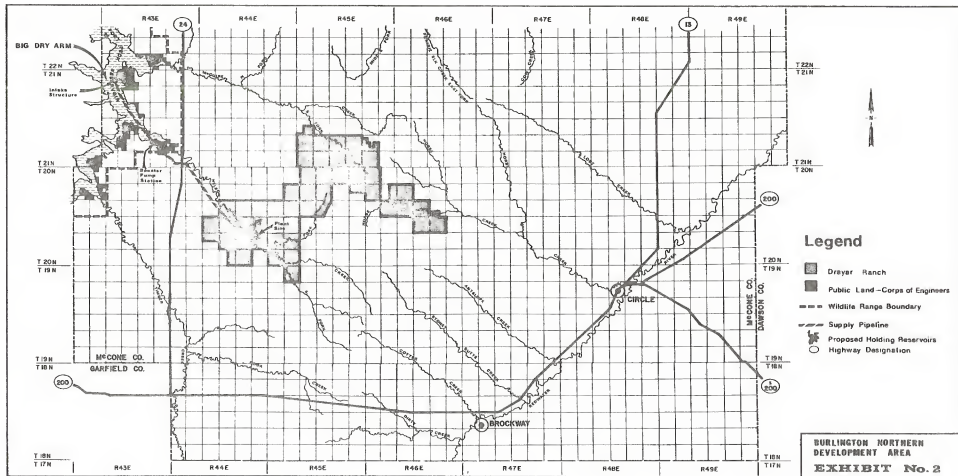
Signature of applicant(s) must be exactly as in Item 1, page 1. If more than one applicant is shown, all must sign.

ATTACHMENT "A"

<u>Sec.</u>	<u>Twp.</u>	<u>Rge.</u>	<u>Acres</u>	<u>New or Supplemental</u>
5	19	45	<u>640</u> 640	new
22	20	44	50	new
23			70	new
24			320	new
25			160	new
26			40	new
35			<u>60</u> 700	new
1	20	45	640	new
2			560	new
3			480	new
4			560	new
8			320	new
9			640	new
10			640	new
11			640	new
12			640	new
15			480	new
16			640	new
17			640	new
18			160	new
19			560	new
20			640	new
29			640	new
30			320	new
31			160	new
32			<u>640</u> 10,000	new
6	20	46	640	new
7			640	new
8			320	new
9			640	new
14			40	new
15			320	new
16			480	new
17			320	new and supplemental
22			490	new and supplemental
23			<u>540</u> 4,430	new and supplemental

<u>Sec.</u>	<u>Twp.</u>	<u>Rge.</u>	<u>Acres</u>	<u>New or Supplemental</u>
26	21	45	160	new
27			160	new
28			60	new
29			150	new
30			120	new
34			480	new
35			640	new
			<u>1,770</u>	

17,540



**BURLINGTON NORTHERN
DEVELOPMENT AREA
EXHIBIT No. 2**

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

APPLICATION FOR BENEFICIAL WATER USE PERMIT

Note: Use one application for each source of supply or separate development. Check all appropriate boxes and fill in each blank line. If the question is not applicable in your case, enter NA (not applicable). If more space is necessary, attach additional sheets.

(Please type or print in ink)

(a subdivision of)

1. Name of Applicant Dreyer Bros. Inc. a Montana Corporation (Burlington Northern Inc

Mailing Address 401 Midland Bank Building

City or Town Billings, State Montana Zip 59101

Home Phone NA Other Phone 259-4521

2. Source of water supply Unnamed Draw (Drainage Area approx. 550-600 acres)
a tributary of Nelson Creek, tributary to Big Dry Creek, tributary to
(stream name; if well, so indicate) Missouri River

3. (a) Point of diversion:

 $\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ Section 24, Township 20^N~~S~~, Range 44^E~~W~~, McCone County

Additional points of diversion, if any: NA

 $\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ Section , Township ^N~~S~~, Range ^E~~W~~, County

 $\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ Section , Township ^N~~S~~, Range ^E~~W~~, County

(b) If water is not consumed, it will be discharged back into the same source:

Yes ☒ ; No ☐ . If no, explain and give the complete land description at the point of discharge. _____

 $\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ Section , Township ^N~~S~~, Range ^E~~W~~, County

4. Description of water development:

(a) Diverting works. Enclose all pertinent engineering data available. If not available, describe the horsepower rating of the pump and capacity in gallons per minute, size of ditches, flumes, dikes or other. NA

(b) Reservoir (if applicable). (See attached drawing marked Exhibit #13)

1. Project will be an enlargement of an existing reservoir.

Yes ☐ ; No ☒ . (If yes, complete both 3 and 4 below.)

2. Project will be a new reservoir.

Yes ☒ ; No ☐ . (If yes, enter NA in 3 below, and complete 4.)

3. Capacity of existing (old) reservoir when constructed: NA acre-feet.

4. Capacity of new (proposed) reservoir: 1,000 acre-feet.

(c) Well Depth: NA feet (if applicable).

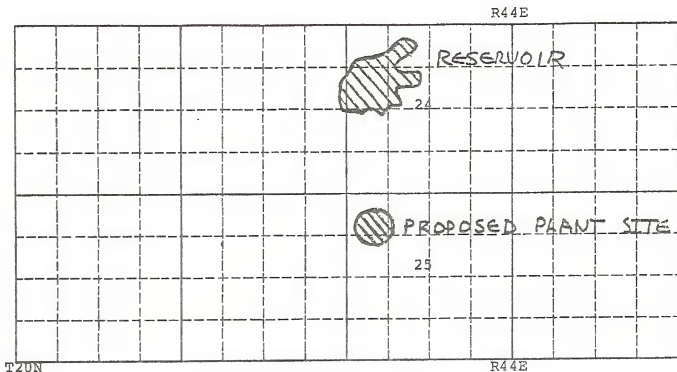
(d) Project will be a developed spring: Yes ☐ ; No ☒.

2:35pm 12-4-76 DNR
By

8. Ownership:

- (a) Property owner at the point of diversion: Applicant
 (b) Property owner at the place of use: Applicant
 (c) If either (a) or (b) above are other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

9. Map of proposed water development: Indicate clearly the point of diversion, place of use, and section, township, and range numbers. Show pertinent information concerning the development, such as dams, canals, ditches, pipelines, wells, etc. Use the largest, most convenient scale possible. If the map shown below is not adequate to describe your development, attach additional sheets. (See Attached Drawing Market Exhibit #13)



10. Remarks: This reservoir is to be the terminal holding pond in conjunction with a diversion from Fort Peck Reservoir. Authority for this diversion from the Missouri River is to be obtained under a previously submitted application. The intended use of the flow of the draw on which this reservoir will be located is described in items 6 & 7 of this application. This application should be treated as amending our application of 6/26/74 as to the location of the storage pond.

11. THE APPLICANT CERTIFIES THAT THE STATEMENTS APPEARING HEREIN ARE TO THE BEST OF HIS KNOWLEDGE TRUE AND CORRECT.

Thomas C. Kuyser
 (Signature)
President, Dreyer Bros. Inc.
 (Signature)

December 1974

(Date)

(Date)

(Signature)

(Date)

Signature of applicant(s) must be exactly as in Item 1, page 1. If more than one applicant is shown, all must sign.

ATTACHMENT: DREYER BROS. INC. Reservoir Appropriation
Application of _____ December, 1974.

6. The initial use of the water placed in storage under this permit will be the irrigation of test plots to assist the applicant in evaluating various land reclamation techniques. Further use will be as outlined in (7) below.
- 7(a) Irrigation for Mining Reclamation. The total number of acres to be irrigated on the proposed land reclamation test plots and the locations of these plots have yet to be determined. All points of use, however, will be within the boundaries of the area outlined on the accompanying map. All this area is owned by Applicant.
- (b) Agricultural, domestic, industrial, irrigation and mining uses associated with applicant's Circle West project for which a prior appropriation has been filed on 6/26/74 at 9:35 a.m. with the Department of Natural Resources of the State of Montana.

DREYER BROS., INC.

Corporate Office
401 Midland Bank Bldg.
Billings, Montana 59101
Phone 406-259-4521

D4

June 26, 1974

Ranch Operations
P. O. Box 96
Circle, Montana 59215
Phone 406-485-3623

Mr. Ted Schwinden, Commissioner
Montana Department of State Lands
Capitol Building
Helena, Montana 59601

Dear Mr. Schwinden:

The purpose of this letter is to inform you that Burlington Northern Inc., through its wholly-owned subsidiary, Dreyer Bros., Inc., intends to develop coal resources associated with its properties in McCone County, Montana, specifically in the area southeast of Big Dry Arm of Fort Peck Reservoir per the attached map.

It is our intention that the coal will be surface mined for consumption in a plant which will manufacture ammonia, methanol-methyl fuel and synthetic diesel fuel. The tentative plant site location is in Section 25, Township 20 North, Range 44 East. It is our intention to utilize irrigation and other beneficial programs, such as fertilization, contouring, and weed control, in the reclamation of mined lands and the development of other lands. The water application includes the quantity needed for this purpose.

This conceptual development is dependent upon the availability of water, and an application has been filed with the State for an appropriation of water from the Big Dry Arm of Fort Peck Reservoir. It is our belief that the concept we propose, which integrates the development of renewable and nonrenewable resources, will provide maximum near and long-term benefits for the State and its people. In particular, the agricultural developments which can be accomplished by irrigation will continue to benefit the area long after mining has terminated.

We appreciated the opportunity last week to give a verbal outline of our concept. We will meet with you at any time, and any suggestions or comments you may offer will be welcome.

If you need any additional information, please contact me at 401 Midland Bank Building, Billings, Montana 59101

Yours truly,



Thomas C. Kryzer
President, Dreyer Bros., Inc.

TCK/ra
Encl.

DREYER BROS., INC.

Corporate Office
401 Midland Bank Bldg.
Billings, Montana 59101
Phone 406-259-4521

D4

June 26, 1974

Ranch Operations
P. O. Box 96
Circle, Montana 59215
Phone 406-485-3623

Mr. Albert C. Tsao
Administrator, Energy Planning Division
Montana Department of Natural Resources
and Conservation
Helena, Montana 59601

Dear Mr. Tsao:

Dreyer Bros., Inc., a wholly-owned subsidiary of Burlington Northern Inc., proposes the following concept for the beneficial development of certain coal reserves on its properties in the area north and west of Circle, McCone County, Montana.

The purpose of this letter is to follow the spirit of the Montana Utility Plant Siting Act by informing you of this concept even though we believe it is excluded from coverage under the Act by the language of Section 3.

Our concept is as follows:

- I. The manufacture of between 1,000 and 3,000 tons per day of ammonia. This would require from approximately 3,000 to 9,000 tons per day of lignite and from approximately 3,000 to 9,000 acre-feet per year of water.

Publications by Montana State University and other agencies have made it clear that the future prosperity of Montana's agricultural industry is quite dependent upon adequate supplies of fertilizer. The same is, of course, true for other states, and for other countries, so that there will be competition in obtaining fertilizer. The lumber industry also, in future years, will be a larger consumer of fertilizer, adding to the competition.

The recently published report "U. S. and World Fertilizer Outlook" (Committee on Agriculture and Forestry, United States Senate, March 21, 1974) makes it clear that there will be a world shortage of nitrogen fertilizers in the foreseeable future.

The conventional "raw material" for the manufacture of ammonia is natural gas; however, it appears unlikely that even the present consumption of gas for this purpose can be maintained, and it is extremely unlikely that additional large quantities of gas can be made available for this purpose.

We believe that the only economically available raw material for ammonia manufacture is coal, and that both the technology and need for such an ammonia plant exist today. Construction on such a plant could be started within two years.

- II. The manufacture of between 2,500 and 5,000 tons per day of methanol-methyl fuel. This would require from approximately 5,000 to 10,000 tons per day of lignite and from approximately 4,000 to 8,000 acre-feet per year of water.

The term "methyl fuel" is not well defined; we are using it to mean a mixture of liquid hydrocarbon materials, predominantly alcohols, of which methanol is the major constituent, whose chemical and physical properties, as a mixture, are such that its combustion characteristics are essentially identical to pure methanol.

Burlington Northern Inc. is interested in the use of methyl fuel for combustion turbine locomotives.

Traditionally, methanol has been made from natural gas, but further and/or expanded production of methanol from gas faces the same problems as ammonia from gas.

We are evaluating methanol-methyl fuel primarily from the viewpoint of Burlington Northern's own energy needs. There are, however, several possibilities of nonrailroad uses for this material which may be of considerable importance to Montana.

Methyl fuel can be used as gasoline blending stock, or directly as fuel in properly equipped engines. In either case, a methyl fuel plant would increase the supply of motor fuel and/or decrease the demand for petroleum-derived motor fuel in Montana.

Methyl fuel, which is an environmentally desirable fuel because of its ultra clean burning characteristics, would make an ideal substitute for LPG which is widely used and which is in short supply.

Methanol is one of the basic petrochemical feedstocks used in the manufacture of resins and glues necessary for fabricated wood products such as particle board, chip board, plywood, laminated wood beams, etc. Such products

are important in terms of wood conservation as well as in terms of employment and taxes, and they cannot be made in Montana if the resins and glues are not available.

We believe the technology for such a methanol-methyl fuel exists today. Most likely the start of construction for any such plant is within three to five years.

- III. The manufacture of between 10,000 and 30,000 barrels per day of synthetic diesel fuel oil. This would require from approximately 5,500 to 16,500 tons per day of lignite and from approximately 5,000 to 15,000 acre-feet per year of water.

The term "synthetic diesel fuel oil" is not well defined; we are using it to mean a mixture of liquid hydrocarbon materials whose chemical and physical properties, as a mixture, are suitable for use as fuel in conventional diesel engines.

Burlington Northern Inc. is interested in the use of synthetic diesel fuel for locomotives.

During the past several months, Burlington Northern Inc. has experienced rising fuel prices and decreasing fuel availability, which could adversely affect our ability to provide service. We recognize, of course, that others face the same problem, but the adverse effect on the general economy if the railroads cannot provide service is difficult to overestimate.

At the present time, Burlington Northern Inc. is consuming about 25,000 barrels per day of diesel fuel oil in our locomotives, and the projected growth in rail traffic indicates that our energy needs will increase. Burlington Northern Inc. is presently evaluating the possibilities of other forms of motive power, but, even if some other form proves feasible and is introduced at some future date, this will probably only lessen our need for additional diesel locomotive fuel.

There are, of course, nonrailroad uses for diesel fuel and equivalent light fuel oils. Several Montana industries are dependent upon diesel fuel, and many homes and commercial establishments are heated with light fuel oil.

Mr. Albert C. Tsao
June 26, 1974

Page 4

The technology for such a synthetic diesel fuel plant is not fully developed although the need for such a plant seems clear. Hopefully, technical progress will allow construction of such a plant to commence within five years.

We intend, assuming that an adequate water supply can be assured, to continue the evaluations and studies of the manufacture of ammonia, methanol-methyl fuel and synthetic diesel oil. The tentative plant site is in Section 25, Township 20 North, Range 44 East, McCone County, Montana.

Yours truly,

A handwritten signature in cursive script, reading "Thomas C. Kryzer".

Thomas C. Kryzer
President, Dreyer Bros., Inc.

TCK/meh